

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)
Plaintiff,) Criminal No. 3:09-cr-117
v.)
SCOTT RYAN DEMUTH,) MOTION FOR EXTENSION OF
Defendant.) TIME TO FILE RESPONSES TO
MOTIONS AND TO CONTINUE THE
TRIAL

The United States of America, in the Southern District of Iowa, by and through the United States Attorney for the Southern District of Iowa and his Assistant United States Attorney Clifford R. Cronk III moves this court for an extension of time to April 29, 2010, to file responses to motions filed by the defendant, and that the trial of this matter be continued to a date certain in early June of 2010. As grounds for the motion the undersigned states the following:

1. The original indictment in this case was returned on November 18, 2009. A superseding indictment was returned on February 17, 2010. This matter is set for trial to commence on May 3, 2010. Defendant Demuth is not in custody.
 2. There are several motions brought by Defendant Demuth, including motions to dismiss and motions to suppress pending before the court. These motions will require a substantial amount of time for Government counsel to review, analyze, and respond to, and will require interviewing the affiants, and checking to see if similar matters have been litigated in Minnesota in the cases pending there. The two case

agents have expressed concern that with so much to do before May 3, 2010, trial readiness will be compromised.

3. The undersigned has several matters presently set for trial on May 3, 2010, including cases where the defendants are in custody and have been in the system longer than the Demuth Case. One such case, *United States v. Gonzalez*, was recently continued to May 17, 2010, but the co-defendant's case was not continued. There are multiple motions filed in that case including motions to suppress that also require further research, analysis, and preparation including the translation of an interview with a Spanish-speaking defendant. Suppression hearings are set for April 15, 2010, and April 29, 2010. Another case, *United States v. Awan, Maheshwari, and Worldwide Software Services, Inc.*, involves two incarcerated defendants and a corporate defendant, and involves allegations dating back to 1997, including immigration fraud, filing of false documents, and voluminous records. This trial, if it commences as scheduled, is likely to involve more than 50 witnesses for the Government and take several days or weeks to litigate. There is a tremendous amount of work, management, and time involved in preparing this case and the Demuth case for trial.

4. The recent departure of two prosecutors from this office has caused a surge in workload for the remaining three prosecutors in the office including the undersigned. One case recently re-assigned to undersigned counsel involves allegations against a local physician for unlawful distribution of controlled substances. Although, the new prosecutor has been assigned to assist in this case, it is also expected to go to trial in

May.

5. Between today's date and May 3, 2010, the undersigned is scheduled to present matters to the grand jury, appear before the court for multiple sentencing hearings with at least one having contested evidentiary issues, two suppression hearings, and a supervised release revocation hearing. Counsel is also responsible for appellate matters including an Appellee Brief due in the case of *United States v. Herbert Coleman*. In addition, the undersigned must prepare plea agreements, sentencing memoranda, and prepare for other trials.

6. So long as the pre-trial motions are pending, the time within which this matter must proceed to trial, under the Speedy Trial Act, is tolled.

7. Under these circumstances, it is appropriate that the time within which the United States must file responses to the defendant's motions be extended and that the trial of the matter be continued. The undersigned is asking that the time to respond to all pending motions be continued to April 29, 2010, and that the trial be continued to a date certain in early June of 2010 but at least to a date on or after May 17, 2010.

8. Counsel for the defendant has been consulted about these requests. He has no objection to an extension of the time to file responses. He also has no objection to continuing the trial of this matter for a period of two weeks, to May 17, 2010. He does not agree to an extension beyond May 17, 2010. He does not intend, by his acquiescence to this request, to waive his client's speedy trial rights.

WHEREFORE, the United States respectfully requests that the time within which it must respond to the defendant's pending motions be extended to April 29, 2010, and that the trial be continued to June 7, 2010, but in any event on or after May 17, 2010.

Respectfully Submitted,

Nicholas A. Klinefeldt
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2010, I electronically filed the foregoing with the Clerk of Court using the CM ECF system. I hereby certify that a copy of this document was served on the parties or attorneys of record by:

U.S. Mail Fax Hand Delivery
 ECF/Electronic filing Other means

UNITED STATES ATTORNEY

By: /s/
Paralegal Specialist